

**Town of Underhill
Development Review Board Minutes
June 19, 2017**

Board Members Present:

Charles Van Winkle, Chairperson
Matt Chapek
Karen McKnight
Penny Miller
Stacey Turkos

Staff/Municipal Representatives Present:

Andrew Strniste, Planning Director

Others Present:

Susan Allendorf (4 Piney Grove Lane)
Grant Allendorf (4 Piney Grove Lane)
Shelby Evans (184 VT Route 15, Jericho, VT)
John Pepi (24 Jacobs Hill Road)
Jon Howard (219 Stevensville Road)
Lawrence Hall (43 Downs Road)
Vincent Sbarro (51 Downs Road)
Sandra Sbarro (51 Downs Road)
Amanda Bosley (73 Bill Cook Road)

6:30 PM – 06/19/2017 DRB Public Meeting

- DRB Members convened at Town Hall at 6:30 PM.
- [6:30] Chair Van Winkle called the meeting to order.
- [6:30] Chair Van Winkle asked for public comment. No public comments were provided.

**6:35 PM – Piney Grove Subdivision Amendment Continued Hearing Docket #: DRB-17-07
Piney Grove Subdivision**

- [6:35] Chair Van Winkle began the meeting by explaining the evening's hearing was a continuation of the May 22 hearing, and that all parties remained sworn in. Chair Van Winkle advised that Board Member Green was not present, and that Board Member Turkos was recusing herself, and therefore, the four remaining board members needed to come to a unanimous decision for approval. Revised plans were submitted as well as the amended State stormwater permit. Staff Member Strniste provided an overview of the exhibits that were submitted prior to the hearing. He proceeded to explain that the Board had requested stabilization and Norway Spruces. Board Member Miller read the email that Mr. Goplen submitted advising that he was opposed to a bond. Chair Van Winkle advised that the Board required a cost estimate for the possibility of obtaining a bond, stating that a bond would assure completion of the project and protect the landowners.
- [6:42] Board Member Miller asked if Mr. Goplen would actually perform the work. Mr. Allendorf and Ms. Evans both advised that since the Homeowner's Association is not incorporated, and therefore, Mr. Goplen would have to complete the work. Ms. Evans adamantly opposed the bond, as she felt that it would prolong the process after hearing Mr. Goplen's sentiments in his email. A discussion ensued on whether a second tree should be removed. Board Member Miller expressed her concerns of removing a tree even if the roots were exposed because the tree may be providing some stabilization to the surrounding environment.
- [6:47] Board Member McKnight asked who would be inspecting the stormwater infrastructure, as the updated State permit did not provide for who should inspect. Chair Van Winkle advised that the title would be clouded if not performed according to the permit. He also advised that the Town could inspect the stormwater infrastructure, make

the necessary improvements, and then bill the Homeowner's Association. He then advised that according to the stormwater permit, anyone can inspect the stormwater infrastructure. Board Member Miller inquired if a licensed engineer had to inspect; however, Chair Van Winkle clarified that the permit did not advise if someone with a license need to inspect. The Board determined that they could likely provide a condition on who should be inspecting the stormwater infrastructure. The Board responded to Ms. Allendorf's question that the Homeowner's Association is ultimately responsible for inspecting. Ms. Evans asked if there was an advantage to having smaller trees planted. Board Member McKnight answered in the affirmative, advising that the roots will settle and integrate better.

- [6:57] Board Member Miller reiterated her hesitation of removing the second tree without knowing the ramifications of that removal. Mr. Allendorf asked the Board to have Mr. Goplen install guard rails or boulders to assist in safety, as this was the opportunity to require Mr. Goplen to do more. Ms. Evans stated that she was opposed of providing more conditions if it would prolong the work from being completed since Mr. Goplen would likely appeal additional conditions. Mr. Allendorf asked if the Board would give Ms. Evans the ability to build before the infrastructure was completed. Ms. Evans advised the Board that she and Mr. Mutolo are in a state of limbo since they have no legal recourse until the Board makes a decision. Chair Van Winkle advised that if the Zoning Administrator did not issue a building permit because a Certificate of Compliance had not been issued, then Ms. Evans & Mr. Mutolo have the option of appealing that decision.
- [7:08] Ms. Evans vocalized her discontent about requiring the installation of boulders, as that seemed to be beyond the scope of this application. Board Member Chapek advised that he asked Mr. Torrizo at the May 22 hearing if a guardrail would help with safety, and Mr. Torrizo responded he did not feel a guardrail was needed, as the pitch improved safety.
- [7:10] Chair Van Winkle advised that the Board could require the applicant to install the infrastructure before a certain date. Board Member McKnight inquired if the applicant could perform the work during the appeal period, which Chair Van Winkle advised yes, but at his own risk. Board Member Miller asked if the bond was a deal breaker, as the Board would prefer to see the project get bonded to assure that it gets done. Ms. Evans was opposed to the bond, even after Chair Van Winkle stated that the bond was for the protection of the neighbors, and that there would be no recourse through the Town if there were no bond. The Allendorfs and Ms. Evans both advised that they were fine proceeding without a bond.
- [7:18] Chair Van Winkle advised one last time that the lack of a bond would mean the Town could not assure the project will be finished if Mr. Goplen did not complete the project.
- [7:19] Chair Van Winkle ask the Board if they had enough information to make a decision on the application. The Board answered in the affirmative. Board Member Chapek made a motion to approve the application and deliberate in closed deliberative session. Board Member McKnight seconded the motion. The motion was approved unanimously.

**7:21 PM – Pepi Subdivision Amendment Hearing
24 Jacobs Hill Road (JB024)**

Docket #: DRB-17-10

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- [7:21] Chair Van Winkle began the meeting by explaining the procedure for a subdivision amendment review hearing. The applicant, John Pepi, were before the Board to discuss his application regarding the modification of the existing building envelope on land he and his significant other, Christina Pepi, own, located at 24 Jacobs Hill Road in Underhill, VT. No other parties were in attendance.

- [7:23] No conflicts of interest were present, and therefore, no recusals occurred. Those who would be providing testimony were sworn in by Chair Van Winkle.
- [7:25] Mr. Pepi provided an overview of his application beginning by stating his property was 4.5 acres, but contained a building envelope that was far more restrictive than the zoning district setbacks would have allowed. He then advised that he could not figure out a reason why the building envelope was this restrictive.
- [7:27] Board Member Miller stated that a possible reason the envelope was a lot smaller than the zoning district setbacks would have allowed was because the original subdivision was considered rural, thus preventing neighbors from building on top of one another, as well as to prevent the applicant from building on Steep Slopes. Mr. Pepi provided an overview of Exhibit N, which is an alternative proposal that would allow him to construct his in-ground pool if the Board did not want to approve the least restrictive building envelope. Board Member Miller reiterated that the smaller building envelope would prevent neighbors from building houses right next to each other. Staff Member Strniste advised that there was now an established single-family dwelling.
- [7:32] Chair Van Winkle advised the applicant that the only restriction that would apply to the current applicant from the previous decision was the implementation of a 75-foot buffer on the north side of the lot. Board Member Miller advised that the Board approved this proposal at a time when they were accepting smaller building envelopes, and that there were no reasons or issues on why the envelope was this size. Board Member Chapek asked if the building envelope was this size to keep with the tree line; however, Mr. Pepi advised that the lot was fully covered with trees prior to its development.
- [7:40] Chair Van Winkle asked if the Board had enough information to make a decision on the application, which the Board answered in the affirmative. Board Member McKnight made a motion to close the evidentiary portion of the hearing, which was seconded by Board Member Turkos. The motion was approved unanimously. Board Member Miller made a motion to approve the application and craft the decision in closed deliberative session. Board Member Turkos seconded the motion, which was approved unanimously.
- [7:42] Mr. Pepi asked if he would have to wait the full 30-day appeal period to obtain the building permit. Staff Member Strniste advised that this decision is similar to building permits being reviewing concurrently with conditional use applications and site plan applications.

**7:46 PM – Howard Waiver/Variance Request Hearing
219 Stevensville Road (ST219)**

Docket #: DRB-17-11

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- [7:46] Chair Van Winkle began the meeting by explaining the procedure for a waiver/variance request hearing. The applicant, Jon Howard, was before the Board to discuss the application pertaining to the expansion of the single-family dwelling into the setbacks on land he owns located at 219 Stevensville Road in Underhill, VT. No other parties were in attendance.
 - [7:46] No conflicts of interest were present, and therefore, no recusals occurred. Those who would be providing testimony were sworn in by Chair Van Winkle.
 - [7:48] Mr. Jon Howard provided an overview of his project, and why he was looking to expand the footprint of his single-family dwelling into the setbacks. He explained why the house could not be expanded in all directions: north – steep slopes; east – property line; west – septic tanks; and south – waterline and driveway. Mr. Howard then provided an overview on how he accesses the lot. He explained that he wanted to keep all of the utilities together, which is why he was proposing the expansion that he did. Board Member Miller

clarified that the neighbors at the site visit did not seem to object, which Mr. Howard stated that was his impression. Staff Member Strniste advised that he did not obtain any objections from other neighbors inquiring about the project.

- [7:56] Staff Member Strniste provided an explanation of Exhibit K. Board Member Miller advised Mr. Howard that obtaining a variance is usually impossible to get; however, his situation showed the best scenario for obtaining one.
- [7:59] Board Member Chapek asked if both a waiver and a variance were required. Staff Member Strniste advised that he did not believe so since the granting of the variance would permit the application to encroach into the setback greater than a possible waiver. Chair Van Winkle reviewed the variance criteria under Section 5.5.C. Staff Member Strniste advised that conditional use review is also required with granting a waiver and variance.
- [8:04] Chair Van Winkle asked if the Board had enough information to make a decision on the application. The Board answered in the affirmative. Board Member Miller made a motion to close the evidentiary portion of the hearing. Board Member McKnight seconded the motion, which was approved unanimously. Board Member Chapek made a motion to approve the application and craft the decision in closed deliberative session. Board Member McKnight seconded the motion, which was approved unanimously. Staff Member Strniste advised Mr. Howard to obtain his building permit in January if he wishes to start construction during the summer of 2018, as he has less development review during the winter.

**8:10 PM – Hall Sketch Plan Review Meeting
43 Downs Road (DW043)**

Docket #: DRB-17-12

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- [8:10] Chair Van Winkle began the meeting by explaining the procedure for a sketch plan review hearing. The applicant, Lawrence Hall, was before the Board to discuss the application pertaining to the proposed 2-lot subdivision of land he owns located at 43 Downs Road in Underhill, VT. Several abutting neighbors were in attendance.
 - [7:46] No conflicts of interest were present, and therefore, no recusals occurred. He also informed the applicant and attendees that the sketch plan review process is an informal process to acquaint the Board with the application, and that it was not a hearing.
 - [8:12] Mr. Lawrence Hall explained that he was looking to subdivide the 10.1 acres and sell the lot with the house and retain the approximate 3-acre lot for himself. At this point in time, he has no intention to develop the lot, but may wish to make it into a camp in the future. Chair Van Winkle confirmed that the existing well is a dug well. A discussion ensued about where Downs Road ends, which is a current debate the Selectboard is entertaining.
 - [8:15] Chair Van Winkle confirmed that regardless where Downs Road ends, the applicant would have frontage on the ROW. Staff Member Strniste advised the Board where the steep slopes on the lot were located according to the ANR website. A discussion then ensued about the small building envelope that would result from the lot configuration, and that while the applicant may not be concerned about accessory structures, subsequent owners may be. Board Member McKnight asked the applicant why it was not configured differently, which he responded to keep access to a stream to the north and because of the location of the existing single-family dwelling.
 - [8:20] Staff Member Strniste provided an overview of his comments in the staff report. Board Member Miller advised the applicant the advantages of proceeding with preliminary subdivision review. Chair Van Winkle advised that the Board would be requesting a road maintenance agreement, and that by waiving preliminary subdivision review, the applicant would save between 8 to 12 weeks of time. Board Member Chapek inquired about the

frontage requirement, especially if the Board did not know where Downs Road ends. Mr. Vincent Sbarro expressed his opinion on where he thought Downs Road ended, and that the Town does not maintain Class IV Roads. Chair Van Winkle asked where the Class IV Road ended. Mr. Sbarro then asked what uses would be considered permitted and conditional if the lot were to be subdivided. He continued to state that this was an inopportune time since all parties signed off of getting rid of covenants that were contained in their deeds. Mr. Sbarro then stated his concern with what will be constructed, and did clarify that his property was for sale. Ms. Sandra Sbarro stated that she did not want construction based on what existed on Downs Road.

- [8:34] Ms. Amanda Bosely stated her concern about the existing right-of-way that may be located on the property, and wanted to make sure the applicant accurately depicts this on the survey plat. A discussion ensued on whether notice was provided to the new abutting lot owners. Board Member Chapek asked where the existing right-of-way is thought to be.
- [8:37] Mr. Hall advised that he signed off the covenants with the understanding that those covenants lapsed after 10 years. Mr. Sbarro advised that he did have the 10-year time limit on his deed. Board Member McKnight asked if the property contained prime agriculture lands or deer yards. Mr. Hall advised that the Angelinos did inform the new owners of their lot of the possible subdivision. Mr. Sbarro asked the Board to consider that the lots in the area were more or less 10 acres. Chair Van Winkle advised Mr. Sbarro that they follow the Town Plan and the Unified Land Use & Development Regulations and Rural Residential zoning district standards. He then informed them that the State used to have jurisdiction on lots under 10 acres due to wastewater, which changed in 2007, and now the State has wastewater jurisdiction for all lots. Mr. Sbarro inquired if two lots would be allowed to pump to one system, which the response was unknown.
- [8:47] Chair Van Winkle advised Mr. Sbarro that unless something was out of the ordinary, they would be inclined to grant subdivision approved. The Board then discussed frontage issues again. Staff Member Strniste advised that the Board can waive frontage under Section 8.6.A.2. Mr. Hall asked Board Member Turkos about what she knew regarding Downs Road, and she advised that she knew of the Downs Road issue from the Selectboard. Staff Member Strniste advised that if the frontage/access was along the Class IV section of the road, then approval for subsequent development would be required under Section 3.2.A. Chair Van Winkle advised the applicant that if he was not looking to develop he could obtain a deferral permit from the State regarding water and wastewater. He also advised that there is a concern of a significantly large well shield around the dug well, which the Board would want to see depicted on the site plan. Furthermore, this would have to be proved as adequate. Chair Van Winkle also advised that the ANR regulations would require the applicant show that a replacement septic system is possible.
- [8:59] A discussion ensued about waiving preliminary, and that the length is dependent on the complexity of the application and the issues that may arise. Staff Member Strniste advised that with preliminary subdivision review, if everything went smoothly, the subdivision process takes approximately 8 months. Without preliminary subdivision review, the process would likely take approximately 6 months, assuming everything went smoothly.
- [9:03] A discussion ensued about Section 8.6.A.1 of the Unified Land Use & Development Regulations. Board Member McKnight inquired if the Bosley driveway was part of the shared driveway, if it would be considered a development road. She then inquired how wide the width of the road would have to be. Board Member Miller advised Ms. Bosley that at the time she wished to develop or subdivide, then she would be the one that would have upgrade the road since upgrades to driveways and roads are on a first come, first service basis. She then clarified with other members of the Board that how the project proposal is

represented may affect the review process.

- [9:14] Chair Van Winkle advised that the Sketch Plan Review Letter would identify the areas of concern. Chair Van Winkle asked if the Board had enough information to make a decision on the application, which the Board answered in the affirmative. Board Member Miller asked for a motion to accept the sketch plan review application. Board Member Turkos seconded the motion, which was approved unanimously. Board Member Miller made a motion to classify the subdivision as a minor subdivision, and waive the preliminary subdivision hearing. The motion was seconded, and approved 4-1, with Board Member McKnight opposed. Board Member Miller explained the difficulty of waiving the preliminary subdivision hearing as it could prolong the process since the applicant does not receive any feedback throughout the process. The Board advised that the concerns included dimensional standards, shared infrastructure, and plowing & maintenance. Staff Member Strniste advised the applicant to submit materials ahead of time so he could make sure they were on the right track, and to propose what he wanted.

9:24 PM – Other Business

- [9:24] Board Member McKnight asked Board Member Turkos to inform the Board about the issues pertaining to Downs Road.
 - [9:27] Staff Member Strniste advised the Board of the upcoming job captains.
 - [9:29] Chair Van Winkle asked for a motion to approve the minutes of May 22, 2017. Board Member McKnight made the motion, which was seconded by Board Member Miller. Motion was approved unanimously.
 - [9:30] Chair Van Winkle asked for a motion to approve the minutes of June 5, 2017. Board Member Miller made the motion, which was seconded by Board Member Turkos. Motion was approved unanimously.
 - [9:32] Staff Member Strniste advised the Board of a recent Road Maintenance Agreement issue he came across when issuing a building permit.
 - [9:42] Staff Member Strniste provided an overview of the schedule for the July 17 meeting.
 - [9:46] A discussion ensued about prospective applicants.
 - [9:48] Board Member McKnight made a motion to enter into deliberative session to discuss the Piney Grove Subdivision Amendment, Pepi Subdivision Amendment, Howard Waiver/Variance Request, and Hall Sketch Plan applications. The motion was seconded by Board Member Turkos, and approved unanimously.
 - [9:50] Board Member Turkos made a motion to adjourn, which was seconded by Board Member Miller. Motion was approved unanimously.
 - [9:51] Board adjourn.
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Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 06/19/2017 meeting of the DRB were accepted
this 21 day of AUGUST, 2017.



Charles Van Winkle, Chairperson